UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/1989/5/Add.9
24 November 1993

Original: ENGLISH

Substantive session of 1994

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Additional information submitted by States parties to the Covenant following the consideration of their reports by the Committee on Economic, Social and Cultural Rights

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND*

[23 September 1993]

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* At its 16th and 17th meetings held on 16 February 1989 (E/C.12/1989/SR.16 and 17), the Committee considered the second periodic report of the United Kingdom of Great Britain and Northern Ireland on the rights referred to in articles 10 to 12 of the Covenant (E/1986/4/Add.23).

By a note dated 23 September 1993 the Government of the United Kingdom of Great Britain and Northern Ireland submitted additional information relating to the consideration of that report by the Committee, which is reproduced in the present document. The additional information pertains to the years 1989 to 1990.

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Introduction

1. The second periodic report of the United Kingdom concerning rights covered by articles 10-12 of the International Covenant on Economic, Social and Cultural Rights was considered by the Committee on Economic, Social and Cultural Rights on 16 February 1989 (E/C.12/1989/SR.16 and SR.17). The Committee raised a number of questions which it felt were not adequately answered by the report, and it also sought further information on various points.

2. This supplementary paper is intended to complement the second periodic report and to provide answers and information as requested by the Committee. Information is provided under general headings for ease of reference and the paper has been formatted on a question and answer basis. The relevant paragraph of the summary records of the committee is noted in each case.

I. HOMELESSNESS AND HOUSING

A. If it is correct that the homeless population of the United Kingdom exceeds 3 million, having doubled in 10 years, what steps are being taken to alleviate the situation? Are the criticisms levelled at the recent Housing Bill justified? (para. 67, SR.16). How many homeless people are there in the country and what programmes have been set up to help them and to solve the problem? (para. 31, SR.17).

3. The assertion that 3 million people in the United Kingdom are homeless is seriously incorrect, by a factor of perhaps a hundred. This figure may be based on the number of households accepted by local authorities as homeless over the last 10 years: that is 1 million households with an average of three people in each. Local authorities have a statutory duty to house homeless people if they have children or are otherwise vulnerable. Once accepted as homeless by local authorities, they will have been housed - either in permanent accommodation immediately or in temporary accommodation while suitable permanent housing is found for them.

4. In 1989 local authorities accepted 127,000 households as homeless in England. At the end of March 1990 there were 41,000 households in temporary accommodation - bed and breakfast, hostels and other arrangements such as leased or short-life housing - mainly in London. The number of people actually sleeping rough - virtually all childless single people - is difficult to count precisely, but is almost certainly well below 10,000.

5. The Government's housing policies are directed towards the reduction of homelessness, by making enough affordable accommodation available in the areas where it is needed. In November 1989 the Government therefore announced an initiative whereby £250 million would be available to local authorities and housing associations in the housing pressure areas of London and the South-East, specifically to try and reduce the numbers of households in bed and breakfast accommodation. A total of £112 million has been allocated to local authorities in 1990/91, and £36 million to housing associations. Most of the money is being used to refurbish vacant council and housing association houses and cash incentive schemes to assist tenants into owner-occupation, thus releasing more lettings to homeless families. Overall we hope that up to 15,000 new lettings will be created as a result of this initiative.

6. The Government's review of the homelessness legislation in 1989 showed that the statutory provisions have, over the last decade, provided an important safety net for those in greatest housing need. The Government considers it is working adequately to protect those homeless through no fault of their own and there are no plans to revise the legislation. The Government is, however, revising the Code of Guidance on homelessness with the aim of improving the consistency and fairness with which local authorities implement and interpret their statutory responsibilities.

7. A separate - though related - problem concerns people sleeping rough. It is estimated that there may be about 10,000 people sleeping rough, mainly in London and other large cities. This is not a new problem and is one which is affecting large cities throughout western Europe. These people often suffer from a range of personal difficulties, and not only a lack of housing. Some of them sleep rough because they do not like the institutional aspects of hostel accommodation; but the Government is concerned that people should not be obliged to sleep rough for want of somewhere to live. A new initiative was announced this year to provide more direct-access shelters for people sleeping on the street; "move-on" accommodation to help people living in hostels into more permanent housing; and a rent deposit fund to help young people to secure a place in rented accommodation. The Government is working closely with voluntary organizations over the implementation of these proposals.

B. What regulations or provisions are in force to help people with low incomes to find accommodation within their means? (para. 84, SR.16). In the light of sales of public housing units in the United Kingdom, how are lower income groups to be housed? (para. 91, SR.16). What is the Government's policy for safeguarding the right to housing of the economically weak? (para. 35, SR.17).

8. The Government's policy is that decent housing should be within reach of all families. In addition to widening the opportunities for home ownership, it is committed to increasing choice for households which need or want to rent their homes. The Housing Act 1988 should make access to rented accommodation easier for all income groups, in particular, the deregulation of the private rented sector should encourage more investment by private landlords.

9. There is also a substantial programme of publicly subsidized rented housing for those who cannot afford to buy or find privately rented accommodation; increasingly it is being concentrated in the areas of highest demand in London and the South-East. Housing associations are replacing local authorities as the main providers of new subsidized housing. Public funding through the Housing Corporation for housing associations - non-profit-making voluntary bodies - in England is planned to increase from £983 million last year to £1,736 million by 1992/93. The 1988 Act reformed the structure of housing association finance, so enabling associations to attract private investment to supplement public funds. Output of subsidized housing by housing associations should rise to double last year's level over the next three years. Housing associations are required to set rents within the reach of those in low-paid employment. Government grants meet an average of 75 per cent of the capital cost of new housing association schemes, enabling

rents to be kept well below market level. Housing benefit is available up to the level of market rents to help public and private sector tenants who cannot afford their full housing costs.

10. Under the Housing Act 1985, local authorities have a legal obligation to house homeless people who fall into one of the priority categories. Authorities are responsible for assessing housing need in their areas and ensuring that those needs are met. They are encouraged to work with housing associations and the private sector to increase the supply of low-cost housing rather than building new housing themselves.

C. The Habitat International Coalition reported that a law had very recently been passed in the United Kingdom which would allow landlords in the private sector to set rents at any level they wish and that there would no longer be protection of "fair rent" provisions. Would that really be the effect of the legislation referred to and what would happen to those tenants who were currently protected? (para. 94, SR.16).

11. The Housing Act 1985 deregulates rents for new lettings after January 1989. Landlords will be able to charge market rents, and will be allowed to let on terms which enable them to recover possession after a fixed period of not less than six months. The Government introduced this reform on the grounds that there is a need to retain an active private rented sector, especially to cater for mobile and single people, and that landlords will refuse to let unless they can make an adequate return. Housing benefit is available for tenants who otherwise could not afford their rents, and meets up to 100 per cent of market rents depending on income.

12. Existing tenants are not affected. They retain indefinite security of tenure, and the right to have a "fair rent" - broadly, what the market rent would be if there were no scarcity - set by a rent officer. The laws protecting tenants from harassment and illegal eviction were also strengthened.

II. CHILDREN'S RIGHTS

A. Are cases of parents being reluctant to care for their children common, and can penal sanctions be invoked against such parents? (para. 73, SR.16).

13. Enclosed at annex A 1/ are tables 1 and 2 from the Department of Health's statistical publication "Children in Care of Local Authorities - Year Ending 31 March 1987, England" which cover children admitted to care in England and Wales during the year ended 31 March 1987 by reason for entering care and children in the care of local authorities at 31 March 1987 by reason for entering care respectively. These tables also show comparative figures for 1977 and 1983-1986 and are the latest available firm figures. The entries in the table which relate to Question A are under:

1/ Available for consultation in the files of the Centre for Human Rights.

(a) "Received into care under section 2 of the Child Care Act 1980" - "Abandoned or lost" and "Deserted by parent" and also possibly "Unsatisfactory home conditions" and "Other Reasons"; and

(b) "Committed by care orders made under the Children and Young Persons Act 1969" - entries S.1(2)(a) and S.1(2)(b) which cover ill-treatment and neglect.

Penal sanctions can be invoked against parents who neglect, ill-treat, abandon, etc., their children under section 1 of the Children and Young Persons Act 1933.

14. In Scotland, lack of parental care is a specific ground for referral to the Reporter to the Children's Panel under part III of the Social Work (Scotland) Act 1968. In 1988 there were 3,319 such cases (8.8 per cent of the total number of referrals for all grounds). This figure has shown a small but steady increase over the last three years and is a significant ground for referral, although the "offence" ground far outstrips the others in terms of referrals.

15. The Children's Panel does not invoke sanctions against parents. Its remit is to decide on a form of treatment for children which will be in a child's best interests.

16. It may be that a hearing will decide to remove a child from the home into some form of residential supervision and it could be argued that that is a sanction against the parents but, in fact, such a decision would be taken in the child's best interests without regard to the interests of the parents. It is for the courts to consider whether the behaviour of parents in neglecting the care of their children merits any form of legal sanction.

17. There is no direct measure of the number of parents in Northern Ireland reluctant to care for their children. The Department collects information routinely from Health and Social Services Boards on the number of children admitted to care either compulsorily or by voluntary arrangement. This information shows the number of children admitted to care according to the reason for admission. The reasons are based on the statutory conditions which must be satisfied before a child can be taken or received into care and reflect not only parental reluctance to care for their children but also parental inability and parental inadequacy. The latest available figures relate to the year ended 31 December 1987 and are set out in the table below.

Admissions to care of Health and Social Services Boards - Year ended 31 December 1987 (Northern Ireland)

Reason for admission	Number
No parent or guardian	2
Death of mother (father unable to provide)	6
Deserted by mother (father unable to provide)	8
Abandoned or lost	5
Incapacity of parent or guardian:	
- confinement	24
- mental illness	20
- other illness	110
Mother unable to provide	155
Parent or guardian in prison, etc.	2
Family homeless:	
- eviction	3
- other	-
Unsatisfactory home conditions	187
Fit Person Orders:	
- offenders	22
- non-offenders	373
Other reasons	134
TOTAL	1 051

18. The Department also collects information on the number of adoptions. In the year ended 31 December 1987 a total of 271 children were adopted in Northern Ireland. Of these, 159 were adopted by a parent or parents. No information is collected centrally on the reasons for adoption. Consequently, it is not possible to indicate to what extent parental reluctance to care for their children was a factor in the remaining 112 cases, without an examination of adoption agency records.

19. Sanctions against parents who neglect, ill-treat, abandon, etc., their children are contained in section 20 of the Children and Young Persons Act (Northern Ireland) 1968. This corresponds to section 1 of the Children and Young persons Act 1933 and provides for similar penalties. In particular, the term of imprisonment on conviction on indictment under section 20 has been increased from 2 years to 10 years.

B. What provision, if any, is made for a child whose parents are in need, and does the extended family play any part in providing aliment in such cases? (para. 82, SR.16).

20. The Government of the United Kingdom provides a range of benefits for families, including cash benefits through the Department of Social Security (DSS) and a variety of services, particularly those delivered via local authority social service departments under the supervision of the Department of Health (DH). Some of these benefits are specially for families in need - whether financial need or other difficulties - while others are available to all families.

21. DSS operates a Child Benefit Scheme, under which payments are made for all children up to the end of secondary education, plus a One parent Benefit for all single parent families. In addition, Family Credit is available for low-income families where the principal earner is in full-time work, while for low-income families without a parent in full-time work Income Support would usually be available, which would include the premium paid to families. Housing Benefit and Community Charge Benefit are also available to help low-income households with rent and local taxes.

22. Under the rules on liable relatives, husband and wife are mutually responsible for each other and for their dependent children. Adult children are not responsible for their parents and there is no liability on other family members (although there may be an expectation that they would share the cost of shared accommodation).

23. The Government recently published a White Paper, "Children Come First", setting out plans for the better enforcement of maintenance obligation from absent parents, including a new system for assessing and collecting maintenance, a new standard formula for calculating maintenance and a new Child Support Agency to identify and trace those liable to pay.

24. Current Scottish arrangements for a child whose parents are in need are contained in the Family Law (Scotland) Act 1985. Under section 1 (10) of the Act, an obligation of aliment shall be owed by and only by:

(a) A husband to his wife;

(b) A wife to her husband;

(c) A father or mother to his or her child;

(d) A person to a child (other than a child who has been boarded out with him by a local or other public authority or a voluntary organization) who has been accepted by him as a child of his family.

25. In respect of single parents there is an obligation under the Act under which aliment is owed by a father or mother to his or her child; thus both parents (whether married or not) are under an obligation to aliment. A child for purposes of aliment is a person under 18 or, if at college, etc., between 18 and 25. Actions can be brought by this child, its curator or curator ad litem, or mother or father, or any person having custody of the child.

26. The amount of aliment depends not upon the child's needs but upon resources of the parents. For children of low-income families awards will be small and recourse will normally have to be made to the Department of Social Security for Income Support or Family Credit. Where parents fail to aliment a child the Department of Social Security can take action against the parent for a contribution to any supplementary benefit paid in respect of the child.

C. A number of questions relating to the protection of children and young persons in employment from exploitation or harassment (para. 91, SR.16):

(i) What is the numerical strength of the labour inspectorate in the United Kingdom?

27. Our latest statistics for the year ending 1988/89 show that there are 6,130 warranted inspectors employed by 461 local authorities carrying out health and safety work. This is equivalent to about 1,610 full-time staff.

(ii) Are the numbers of inspectors increasing or decreasing?

28. There has been a small increase (about 2 per cent) in the numbers of authorized inspectors over the previous years' figures. Similarly, there has been a small increase in the numbers of full equivalent staff.

(iii) What is the status of inspectors?

29. The wide range of interests represented on the Health and Safety Executive (HSE) inspectors' superior directing body is important in defining their status; it allows them to act in an unbiased way between employer and employees, uninfluenced by local pressures. HSE inspectors are practical specialists in health and safety at work; the legislations which they enforce aim to secure the health, safety and welfare of persons at work, and to protect others who may be affected by work activities.

30. Under the Health and Safety at Work Act (HSW Act) inspectors are given substantial powers to:

(a) Visit workplaces to carry out their functions. Inspectors can insist on entry to premises at any reasonable time (or in dangerous situations, at any time) and having entered, can photograph and measure, examine and copy documents, take samples, interview witnesses and then require them to sign a declaration of the truth of their answers. Inspectors can also require persons to give any necessary assistance;

(b) Require compliance with health and safety legislation. Inspectors can serve formal enforcement notices requiring that matters be remedied within a specified time, or that dangerous activities be stopped. Failure to comply with such notices is an offence;

(c) (In serious cases) prosecute personally in the magistrates courts (in England and Wales) or make representations that a case be heard in the higher (Crown) court.

31. Inspectors' other duties include informing employees of matters affecting their health, safety and welfare, and of any action HSE is taking. Inspectors

are very often Environmental Health Officers although they may be technical staff undertaking health and safety duties. They are frequently employed in Environmental Health Departments by local authorities.

(iv) How frequently are enterprises inspected?

32. The Health and Safety Executive's Factory and Agricultural Inspectorate programme of preventive inspection visits to work premises is planned on the basis of a rating system which requires an inspector to assess:

(a) Present performance, as exemplified by standards of safety, health and welfare observed during an inspection;

(b) The future worst case risk to employees and to the public;

(c) Management in its self-regulatory role;

and also takes into account the elapsed time since the last inspection.

33. There is no fixed period between inspections. The system provides that a small percentage of places with a major inherent risk are so highly rated that they receive an annual preventive inspection. Others require extra "points" for each year they are not inspected, so that the better and less hazardous workplaces eventually come forward for attention. HSE's SHIELD computer recalculates the scores for each workplace at the start of every planning year and the "field" from which inspectors construct their preventive inspection programme is defined by a point on the rating scale at and above which each workplace is a candidate for inspection. There are about 1,250,000 premises where health and safety legislation is enforced by local authorities.

(v) What role, if any, do shop stewards and trade union officials play in the protection of children and young persons at work?

34. The Safety Representatives and Safety Committees Regulations 1977, made under the Health and Safety at Work Act, permit recognized trade unions to appoint safety representatives from amongst the workforce. Safety representatives have extensive powers to inspect the workplace, investigate hazards, incidents and complaints, make representations to their employer, be consulted by their employer and receive necessary information. If two or more safety representatives request it in writing, their employer must set up a safety committee to keep health and safety measures under review. Although primarily appointed to represent union members, safety representatives normally cover all workers at their workplace. This would include young people and, in those non-industrial activities where it is legal to employ them, children.

(vi) Is there a tripartite body which monitors the implementation of relevant legislation?

35. The HSW Act created the Health and Safety Commission (HSC), which is responsible for the general supervision of health and safety law, for policy on health and safety and for making proposals for new regulations to Ministers. It also has general oversight of HSE. The HSC comprises representatives of employers' organizations, trade unions and local authorities, plus a representative of the public.

D. The Committee wanted a fuller response to the written question on the article by Martin Rosenbaum of the Children's Legal Centre on children's rights (para. 29, SR.17).

36. This can best be answered by splitting the question into three sections - the right to life, the right to liberty and the right to privacy.

The right to life

37. The article does not contain any firm evidence that avoidable deaths are occurring due to a shortage of nurses or intensive care facilities.

38. In recent years, rapid technological development in neonatal intensive care has meant it is now possible to keep alive very small babies who would have previously died. The resources needed to care for those babies are considerable. The fact that health authorities are increasingly developing their services is demonstrated by the encouraging fall in the infant mortality rate to the lowest since records started. The infant mortality rate for England and Wales for 1989 is 8.4 per 1,000 live births. More than 90 per cent of babies now survive the crucial first four weeks of life.

39. Since 1980 the number of neonatal intensive care cots and the number of nurses and midwives working in neonatal units have increased markedly. The Department is aware, however, that despite these achievements there can continue to be problems in providing services to meet ever-growing demands in certain areas of the country for intensive care services. The problems are often not so much to do with any shortage of revenue or capital but rather to do with shortages of the specialized staff, especially nursing staff, needed to ensure that facilities run at maximum capacity.

40. To help combat these problems, the Department's Management Board launched a national survey of nurses working in high technology care, including paediatric and neonatal intensive care. Results identified two key issues:

(a) The need to assess the demand for nursing staff and skill mix as part of the health authorities' continuing work to develop manpower, education and training strategies; and

(b) The need to review the present provision and structure of post-registration education and training.

41. To this end the Department has funded the English National Board for Nursing and Midwifery and Health Visiting to undertake a comprehensive review of the demand for post-registration training in high technology care. The

Department has also made available in health authorities some £3 million per annum for three years to pump-prime developments in post-registration training including neonatal and paediatric intensive care.

42. The Department hopes that these measures and the recent clinical regrading exercise for nurses and midwives will help to improve the staffing for these services. It needs, however, to be borne in mind that the difficulty in recruiting and retraining specialist paediatric and neonatal intensive care nurses is not just a matter of demand and supply strategies and funding arrangements. Working in these areas is highly stressful, often undertaken by young people whose natural career and life opportunities may lead them to leave the speciality, and these factors must also be taken into account.

43. The United Kingdom continues to take active steps to promote immunization without the need for compulsion. High uptake rates, demonstrated in the table below, make compulsory immunization unnecessary.

Provisional figures for immunization uptake in England in February 1990 are:	
Diphtheria, tetanus, polio	88%
Measles, mumps, rubella	85%
Pertussis	80%

The European Commission made its statement in 1978 when uptake rates were low. The picture today is quite different from that of 12 years ago.

44. Since 1980 there has been a continued trend towards specialized paediatric oncology centres. These appear to contribute to improved survival rates. Five specialist palliative care units for children have also been established since 1980. These units form part of the wider hospice movement, to which Ministers are strongly committed. The Department of Health itself supports the Childhood Cancer Research Group in Oxford which has an important role in monitoring the incidence of and deaths from childhood cancers.

45. The report of the United Kingdom Children's Cancer Study Group has been drawn to the attention of regional health authorities which have accepted it as a sound basis for planning cancer services for children.

The right to liberty

46. The article discussed, among other topics, the use of secure accommodation by wards of court. The comments made in the second periodic report on this topic need to be updated. The Children Act has now been passed and will come into force in October 1991. The effect of the Act is to prevent courts from using wardship proceedings in order to have a child placed in local authority care, and to stipulate that the making of a care order will bring the wardship to an end. We expect these measures to result in a significant decrease in the number of children who are wards of court. If a child is a ward of court it will remain possible for the wardship judge to authorize or direct that he be held in secure accommodation.

47. Mr. Rosenbaum's article mentions that "wards are not necessarily ever parties to their own case". However, the Secure Accommodation Regulations and accompanying guidance that are being drafted under the Children Act make it clear that judges, when considering the use of secure accommodation for wards of court, should consider whether these children should be made "parties to their own case".

48. Mr. Rosenbaum also mentions that if children are parties to their own case, "they must be represented by a guardian ad litem, usually the Official Solicitor". This will remain the case but we cannot agree with Mr. Rosenbaum that this denies a ward of court a fair and public hearing. Their "guardian ad litem" is bound to represent their best interests at any secure accommodation hearing and the wardship judge is bound to take their interests into account when making a decision. If that decision is to authorize or direct the placement of the ward in secure accommodation, the judge will have to satisfy himself that the "secure accommodation" criteria set out in section 25 of the Children Act have been met. (This last provision is specified in the draft regulations and guidance made under section 25 of the Act).

49. Proposed new child legislation along the lines of the Children Act 1989 will include provisions similar to section 25 of the 1988 Act bringing the law and practice in Northern Ireland on the use of secure accommodation for "care" children into line with article 5 of the European Convention on Human Rights. It is expected that the new legislation will be made in July 1991 and come into operation in 1993.

50. In Scotland children under the age of 16 who are deprived of their liberty by being taken to a "place of safety" must have their cases referred without delay to the Reporter to the Children's Panel. He will arrange for a children's hearing to sit on the first lawful day after the child's detention so that full consideration can be given to the child's case. Although the Reporter can himself free the child it will generally be for the hearing to take such a decision. If the child and/or parents are not satisfied with the decision of the hearing, they have the right to appeal the decision to the Sheriff Court. The rights of the child are therefore preserved at every stage of the process.

51. It is also worth pointing out that the Children Act (section 25), and the accompanying guidance and regulations, will extend the protection afforded to children. At present, the use of secure accommodation outside the system of local authority community homes (e.g. in voluntary children's homes, or hospitals) is not regulated as clearly as it might be. The draft regulations and guidance made under section 25 of the Act make the following proposals:

(a) Section 25 of the Act (which sets out the criteria to be met before secure accommodation is used) will be applied to some children, whether or not looked after by a local authority, who are accommodated outside the community homes system. The children concerned are those in secure accommodation provided by any health authority or local education authority or in any residential care home, nursing home or mental nursing home;

(b) If a child being looked after by a local authority is accommodated elsewhere outside the community homes system, section 25 of the Act may apply; a court may have to decide in doubtful cases;

(c) The use of secure accommodation in voluntary children's homes and registered children's homes will be prohibited altogether.

The right to privacy

52. On page 6 of his article Mr. Rosenbaum referred to the case of Graham Gaskin which was then pending before the European Commission of Human Rights. The issue in that case was not the age of Mr. Gaskin, but whether information from Liverpool City Council's records relating to the period he spent in their care should be released to him even where the agreement of the originator of the information could not be obtained in accordance with standard procedures at the time. The court held that this question did fall within the ambit of article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which relates to the right to respect for private and family life. The court did not, however, hold that there should be unrestricted rights of access to such information in all cases, simply that there should be some means of independent arbitration in the circumstances then in question. The United Kingdom authorities are still considering the implications of the judgements. In the meantime, United Kingdom legislation has in any event been amended. Now information can only be withheld if it identifies - or enables identification of - a third party who is not a social services or similar employee, and who does not consent to disclosure of the information. (There are special rules in the case of medical information, information likely to cause serious harm and other special circumstances). Requests are then met instead by the provision of information from which the identifying details have been removed, if this is practicable.

53. On the same page Mr. Rosenbaum referred to differing age limits being applied to requests from children to access to information held about them by local social services departments. Rights to access to personal information held by social services departments are now set out in the Access to Personal Files (Social Services) Regulations 1989 which came into force on 1 April 1989. These do not make any different provision for the treatment of requests from children, but guidance has been issued to local authorities in Circular LAC(89)2 in line with the principle in common law that a child can make a valid request if he understands the nature of the request. The child can show that he does this by making a written application, or in an interview, or through a certificate to this effect signed by an adult. If he does not understand the nature of the request, the parent may make the request and receive the reply on his behalf. Local authorities have been specifically directed not to operate age limits as to when a child may himself be given information, but determine each case on its merits. (Similar considerations apply where computerized information is concerned, guidance being given in Circular LAC(88)16 as amended by Circular LAC(89)2).

54. In relation to the right of access to personal files, the main difference between Northern Ireland and Great Britain is that the Northern Ireland legislation to provide for access is still being drafted and is not expected to be enacted until early 1991. The proposed legislation will follow closely the provisions in the Access to Personal Files Act 1987 and will also

incorporate parallel provisions to those in the Access to Medical Reports Act 1988. The legislation will provide for regulations to be made enabling an individual to know what accessible personal information is recorded about him or her in manually maintained records held by specified authorities; this will include personal information held for any purpose of a Health and Social Services Board's personal social services functions under specified enactments. If this legislation comes into force, then it is intended that guidance to Health and Social Services Boards in respect of children will reflect that contained in Circular LAC(89)2.

55. The Access to Personal Files (Social Work) (Scotland) Regulations 1989 came into force on 1 April 1989, made by the Secretary of State for Scotland under section 3 of the Access to Personal Files Act 1987. The Act requires that requests from children for access to personal social work information should be treated in accordance with the existing common law of Scotland and the legal capacity of each child. Where the child is a pupil (a girl aged under 12, or a boy aged under 14) any legal right conferred by the Act can be exercised only by the tutor (normally a parent). However, a minor child's parent or other curator, may not exercise the right of access to personal information about that child without the child's informed consent. It is for local authorities to satisfy themselves on this account.

56. It is proposed to lay before Parliament before the end of this session regulations governing access to personal records in school and further education in Scotland. These regulations will give schoolchildren the right of access to their personal records when they are aged over 16 or, if they are under 16, with the consent of their parents. Parents of pupils under the age of 18 will have a right of access and parents of pupils, where the pupil is under 18 years of age and is not in the opinion of the education authority capable of understanding the relevant information in respect of which access is sought, will also have rights of access.

57. It would appear from Mr. Rosenbaum's article that he would have criticisms to make of the fact that the Scottish regulations are proposing a threshold of 16 years of age for pupils' independent right of access. This position is in contrast with the ages of minority under Scots common law of 12 years for girls and 14 years for boys. This threshold has been arrived at for good educational reasons. Under the age of 16 under the 1980 Education Act parents are legally responsible for ensuring that their children receive adequate education. Over the age of 16 pupils are voluntary attenders at school and therefore they should have the independent right of access to their records. However, it would be out of line with all current thinking on education not to encourage partnership between schools and parents and that is why Scotland has provided for parents of students over the age of 16 to have access to their children's records.

III. PROTECTION OF THOSE WHO LIVE BELOW THE "POVERTY LINE"

(A series of questions arising from our written answer to a question in which we stated the United Kingdom Government's belief that the most effective way to attack poverty is to pursue a policy of economic growth.)

A. There was evidence to indicate that the increasing sophistication of industrialized society leads to ever-greater numbers of people finding

themselves marginalized in economic terms. Is it the policy of the United Kingdom Government to make the individual responsible for his own subsistence? (para. 66, SR.16)

58. The United Kingdom has a comprehensive system of social protection based on a carefully constructed partnership between State, occupational and private provision. The State Social Security system is a judicious mixture of contributory, income-related and other non-contributory benefits and this provides a broad base of financial help for all citizens when appropriate. The income-related benefit system provides fair and well-targeted assistance without undermining independence and self-reliance.

B. Economic development can lead to greater poverty among the masses so it cannot be equated with improving living standards for everyone. What measures are being taken by the United Kingdom Government to ensure that national wealth is equitably distributed? (para. 92, SR.16)

59. The United Kingdom's Social Security system was reformed under the 1986 Social Security Act. It is now capable of directing more help to priority groups including families with children, the sick and disabled, pensioners and lone parents. Since the Act came into force in April 1988 an extra £350 million in real terms has been made available for families with children in respect of income-related benefits. Real improvements have been made in benefits for 2½ million less well-off pensioners costing £200 million a year.

C. Please provide figures on the number of people suffering from malnutrition in the United Kingdom and indicate the measures which are being taken to remedy the problem. (para. 32, SR.17)

60. There are no people suffering from malnutrition in the United Kingdom.

D. What does the Government consider the poverty threshold to be? (para. 35, SR.17)

61. The United Kingdom does not have a poverty threshold. The Government believes it is not possible to draw a line which defines who is poor and who is not. No Government of any political persuasion within the United Kingdom has ever accepted such a proposition.

<u>Benefits for strikers</u>

E. Are workers on strike entitled to unemployment benefits or other supplementary benefits or income support? If not, how are they able to maintain a tolerable level of subsistence in the case of long disputes? (para. 92, SR.16)

62. The law governing entitlements of benefits for people involved in a trade dispute makes no distinction between those involved in official disputes and those involved in unofficial ones. Similarly, it does not depend upon union membership, or whether a strike is official or unofficial, or indeed whether it is lawful or unlawful.

63. Unemployment benefit is not payable at any stage of a stoppage of work. But income support can be paid.

64. Strikers or their unions are expected to bear at least part of the cost of maintaining dependants. This is achieved by the deduction of a "relevant sum" from the benefit otherwise payable for the dependants. It is applied whenever a claimant is without employment due to a trade dispute, whether or not he is a member of a union and irrespective of whether a strike is official or unofficial, or indeed, lawful or unlawful. The deduction does not therefore depend upon or assume strike pay.

65. The calculation of income support excludes the person involved in the trade dispute. In the case of a single person with no dependants, no income support is payable. Where the person is a member of a couple the personal allowance is half that normally appropriate for a couple. Half of any premium which may be appropriate for the couple is awarded. Family premiums and allowances for children are allowed in full. If entitlement to income support thus calculated is equal to or less than the relevant sum, no payment is made; if entitlement is more than the relevant sum, payment will be a weekly rate equal to the difference. No benefit is payable for the first seven days of the dispute.

66. An applicant or partner affected by a trade dispute who is disqualified from receiving unemployment benefit is not eligible for a budgeting loan from the social fund. A crisis loan may be awarded only to cover expenses which have arisen in consequence of a disaster or expenses connected with cooking or space heating (including fireguards). A community care grant may be awarded only for certain travel costs within Great Britain to visit a partner, dependant or close relative in hospital or similar institution or who is not in hospital but, in the opinion of the doctor in charge, is critically ill.

67. Housing benefit is an income-related benefit intended to help those on low income to pay their rent and rates. Entitlement is assessed by comparing a person's net income with an amount intended to cover everyday living expenses, taking account of the size and make-up of the household.

68. A person who has been involved in a trade union dispute can claim income support for the first 15 days of his/her return to work. These repayments are recoverable. After making an award the adjudication officer will decide the amount of the claimants "protected earnings", which is the amount below which the person's earnings must not be reduced by any deduction made to recover a post-dispute award. Arrangements will then be made with the person's employer for the recovery of payments of income support.

IV. CONSUMER RIGHTS AND FOOD SAFETY

A. Please provide further information on the role of Consumer Associations in alerting the public to cases of consumer fraud, pollution and the need for higher standards of hygiene in the foodstuffs industry. (para. 68, SR.16)

69. It is an offence under the Food Safety Act 1990 (and previously under the Food Act 1984) to sell or expose for sale for human consumption any foodstuff which fails to comply with the food safety requirements of the Act or which is falsely or misleadingly labelled or presented. Enforcement of this law rests with local authorities; consumer associations have no statutory role in this process although they do monitor the situation on their own initiative and

will take up with government or enforcement authorities issues which they consider worthy of discussion and play an important role in bringing pollution incidents to the attention of the relevant authorities.

B. The London Food Commission stated that the Government's own public health laboratory had estimated that 65 per cent of frozen chickens on sale in the United Kingdom might be contaminated with salmonella. What action has the Government taken on that finding? (para. 95, SR.16)

70. The United Kingdom Government has adopted a comprehensive series of measures to tackle the problem of salmonella in eggs and poultry. As part of this programme breeding flocks have to be tested regularly for salmonella and those birds producing infected eggs or broiler chicks are compulsorily slaughtered.

C. The London Food Commission further stated that on one key food advisory committee there was one consumer representative as against seven representatives who were linked to the food industry. Does the United Kingdom regard that as adequate consumer representation? (para. 95, SR.16)

71. The London Food Commission is incorrect. The Committee it is referring to is the Food Advisory Committee whose terms of reference cover advice to Ministers on the exercise of powers in the Food Act 1984 (and in future the Food Safety Act 1990). There are no "representatives" as such but the membership is selected by Ministers so as to provide for advice from persons with a whole range of background experience in the food sector. Of the 15 members, 5 (including the Chairman) come from academic backgrounds, 5 having experience in the food industry (manufacturing and retailing) and 5 have backgrounds in consumer organizations or food law enforcement.

Northern Ireland

D. Information received indicated that Northern Ireland had the highest rate of coronary heart disease in the world. Was this related to inappropriate diet? (para. 95, SR.16)

72. Northern Ireland has one of the highest rates of coronary heard disease (CHD) in the world. However, it is encouraging to note that deaths from the disease are on a definite downward trend having fallen by around 25 per cent over the last 10 years. (see tables at annex B 1/). The causes of coronary heart disease are multifactorial of which inappropriate diet is only one risk factor.

73. In 1986 the Government launched the Northern Ireland "Change of Heart" Programme which is a community-based programme aimed at reducing the high levels of deaths from CHD by 15 per cent over a 10-year period. The programme, outlined in a strategy document published in 1986, is tackling the main risk factors associated with CHD, namely smoking, raised blood pressure, high serum cholesterol levels caused by too much saturated fat in the diet, and physical inactivity.

V. IMMIGRATION

To what extent do the immigration rules in the United Kingdom facilitate family unity (both in terms of persons who are regarded as married under the marriage legislation in force, and of common-law spouses who wish to join their partners in the United Kingdom)? Is any further thought being given to the liberalization of the immigration provisions to encourage family unity within the context of the Covenant? (para. 60, SR.16)

74. The United Kingdom has maintained a strong commitment to the principle of family unity by making generous provisions for the admission of the spouses and children of those already settled in the country. In the decade 1980-1989, the United Kingdom has accepted some 226,000 spouses and 110,000 children for settlement. In 1989, husbands, wives and children accounted for 28,230 acceptances for settlement: 58 per cent of total acceptances.

75. The Immigration Rules provide that any person wishing to settle in the United Kingdom as a spouse or a fiancé(e) must show on balance of probabilities that:

(a) The marriage was not entered into primarily to obtain admission to the United Kingdom;

(b) The parties to the marriage have met and intend to live permanently together; and

(c) The parties can maintain and accommodate themselves and their dependants adequately without recourse to public funds.

76. The Immigration Rules relating to marriage are designed to guard against abuses by those who are prepared to enter into marriage simply as a device to obtain settlement in the United Kingdom; they do not seek to place obstacles in the path of those who enter into genuine marriage with persons not settled here. It is a regrettable fact that there are people who are prepared to enter into bogus marriages - often exploiting an unwitting partner in the United Kingdom - as a means of securing admission to the country for which they would not otherwise qualify.

77. There is no provision in the immigration rules for the admission of common-law spouses. However, such spouses may be admitted as a matter of discretion if the couple are living together in a stable relationship and intend to continue doing so permanently. Discretion may also be exercised where these criteria are not met if the couple are not free to marry and the United Kingdom sponsor would suffer undue hardship by being required to live in the partner's country.

78. In considering whether action should be taken to remove an individual from the United Kingdom, full account is taken of all relevant factors. These include the presence of a spouse and any children in the country, the number of years they have lived here, the stage the children may have reached in their education and any special difficulties they or the spouse may face living abroad. Where, having taken account of such factors, removal from the United Kingdom remains the right course, it will be for spouse to decide

whether he/she and their children (if any) should accompany the person whose departure is being enforced. The family unit may return to or adopt the country of legitimate residence of the person who is being removed from the United Kingdom. If necessary, their fares will be met from public funds.

79. The Government has kept and will continue to keep the operation of the marriage rules under review. But it is satisfied that the present rules provide proper safeguards against abuse without imposing unreasonable restrictions on the freedom of individuals to marry and live with the spouse of their choice.

VI. SAFETY AT WORK

The Committee sought more information on measures taken by the United Kingdom Government to improve health, safety and environmental standards of the workplace. (para. 85, SR.16)

80. The "Plan of Work for 1989-90 and beyond", produced by the Health and Safety Commission, is attached at annex C 1/ and provides further information.

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